

## **FISCAL ANALYSIS MEMORANDUM**

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

**DATE:** June 19, 2013  
**TO:** Senate Finance Chairs  
**FROM:** Jennifer Hoffmann, Fiscal Research Division  
**RE:** PCS S328-CSRI-26 [v.13]

<b>FISCAL IMPACT</b> (\$ in millions)					
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> No Estimate Available		
	<b>FY 2013-14</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
<b>State Impact</b>					
Special Fund Revenues:	-	0.34	0.34	0.34	0.34
Special Fund Expenditures:					
State Positions:					
<b>NET STATE IMPACT</b>	<b>-</b>	<b>\$0.34</b>	<b>\$0.34</b>	<b>\$0.34</b>	<b>\$0.340</b>
<b>Local Impact</b>					
Revenues:					
Expenditures:					
<b>NET LOCAL IMPACT</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Environment and Natural Resources					
<b>EFFECTIVE DATE:</b> Except as otherwise provided, the act is effective when it becomes law. Fees effective July 1, 2014.					
<b>TECHNICAL CONSIDERATIONS:</b> None					

**BILL SUMMARY:** The Proposed Committee Substitute (PCS) for Senate Bill 328 would: (1) extend the duration of permits for sanitary landfills and transfer stations to thirty years ("life of site"); (2) modify the Department of Environment and Natural Resources' authority to issue and transfer permits for solid waste management facilities; (3) modify certain requirements governing sanitary landfills including applicable buffers, cleaning and inspection of leachate collection lines, alternative daily cover, and required studies for owners and operators of certain sanitary landfills; (4) modify requirements for financial responsibility applicable to applicants and permit holders for solid waste management facilities; (5) amend the rule governing collection and transport of solid waste to require

that containers be "leak-resistant" rather than "leak-proof" and amend a statute that requires vehicles to be constructed and loaded to prevent leakage; (6) define the term "leachate" and clarify that it excludes liquid adhering to tires of vehicles leaving sanitary landfills; and (7) make related clarifying, conforming, and technical changes to the statutes and rules governing solid waste matters.<sup>1</sup>

## **ASSUMPTIONS AND METHODOLOGY:**

In calculating the fiscal impact of the PCS, this fiscal memo uses the following assumption:

1. The number of active facilities permitted remains constant over the next five years. The Department of Environment and Natural Resources (DENR) does anticipate limited growth in the number of sanitary landfills (less than 5) and transfer stations (less than 10) in the next five years; however, the exact number and size of these facilities is unknown and therefore not included in the expenditure or revenue projections.

This memo also acknowledges the following:

2. No permits have been issued using the 10-year permit option recently enacted by the General Assembly in the Regulatory Reform Act of 2012 (S.L. 2012-187). The Regulatory Reform Act required the Commission for Public Health to adopt rules to issue the 10-year permit for sanitary landfills and transfer stations by July 1, 2013; therefore this option has not yet gone into effect. This PCS repeals both the 5-year and 10-year options and replaces it with a 30-year "life of site" permit.
3. Revenue currently collected from solid waste management facilities by the Department of Environment and Natural Resources (DENR) is based on permits of five-year duration, 5-year amendment fees, and annual fees using the existing fee schedule set in statute.

**Section 1** of the PCS extends the duration of permits for sanitary landfills and transfer stations to a total of 30 years (from the current 5-year permit), and requires the Commission for Public Health to adopt a rule to allow applicants for sanitary landfills and applicants for transfer stations to apply for the 30-year permits. A limited review of the permit would be required five years after issuance of the initial permit, and at five-year intervals thereafter until expiration. The PCS provides that the limited review includes a review of the operations plan, closure plan, post-closure plan, financial assurance cost estimates, environmental monitoring plans, and any other applicable plans for the facility. This provision would be applicable to new facilities for which permit applications were submitted on or after July 1, 2014, and to existing facilities when the associated permits next come up for renewal after July 1, 2014.

The PCS also changes the fee schedule applicable to new sanitary landfills and transfer stations permitted on or after July 1, 2014 to reflect the extension to the duration of permits for these facilities to 30 years (see Table 1 for new fees; see Table 4 at end of memo for a comparison of current fees to proposed fees). In all instances, except for the two highlighted in bold on Table 1 below, the 30-year "life of site" permit fees for new facilities are the same as they currently are for a 5-year permit. For existing facilities, the "life of site" permit fee is based on the 5-year amendment fee which is repealed and replaced with a new major modification fee in the same amount, except for Tire Monofill facilities

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<sup>1</sup> Bill summary prepared by Jennifer McGinnis, Committee Counsel to Senate Committee on Agriculture/Environment/ Natural Resources.

where the fee is increased from \$1,250 to \$9,000 and for small Transfer Stations where the fee is reduced from \$3,000 to \$1,500. The PCS also establishes a new ownership modification fee for the facility types listed on the Table. Lastly, the annual fee is also amended by increasing the fee for all facility types and sizes, except for small Transfer Stations where the annual fee stays the same.

Table 1: PCS - SB 328 Proposed Fee Schedule by Facility Type and Size					
Facility Type & Size	# of Active Facilities	New 30-Year "Life of Site" Permit Fee	Major Modification Fee	Change Ownership Fee	Proposed Annual Fee
Municipal Solid Waste Landfill Facility < 100,000 tons/yr	20	\$25,000	\$15,000	\$5,000	\$7,500
Municipal Solid Waste Landfill Facility ≥ 100K tons < 250K tons/yr	12	\$50,000	\$30,000	\$5,000	\$12,000
Municipal Solid Waste Landfill Facility ≥ 250,000 tons/yr	8	<b>\$75,000</b>	\$55,000	\$5,000	\$15,000
Construction and Demolition Landfill Facility < 25,000 tons/yr	35	\$15,000	\$9,000	\$3,000	\$5,500
Construction and Demolition Landfill Facility > 25,000 tons/yr	17	\$30,000	\$18,500	\$3,000	\$8,500
Industrial Landfill <100,000 tons/yr	8	\$15,000	\$9,000	\$2,000	\$5,500
Industrial Landfill >100,000 tons/yr	9	\$30,000	\$18,500	\$2,000	\$10,000
Tire Monofill	2	<b>\$15,000</b>	\$9,000	\$2,000	\$5,500
Transfer Station < 25,000 tons/yr	40	\$2,500	\$1,500	\$1,000	\$750
Transfer Station > 25,000 tons/yr	47	\$5,000	\$3,000	\$1,000	\$1,500

Note that only newly permitted facilities would pay the full cost of the new 30-year permit fees shown on Table 1. Existing facilities would pay a smaller fee based on the Major Modification fee that will be prorated for each facility to reflect the number of years remaining in its 30-year life.

For existing facilities, the PCS also phases in the cost of the 30-year permit over the life of the permit with 50% of applicable fee due upon submission of the application, 25% paid at five years after the issuance of the permit, and remaining 25% paid at 10 years after the issuance of the permit.<sup>2</sup> Because the current length of a permit is five years, all existing permits are scheduled to come up for renewal in the first five years that the 30-year permit becomes effective (July 1, 2014). All facilities would also be paying 50% of their 30-year permit during years zero through four with their next installment due in years five through nine and their final installment in years ten through 14.

The amount of fee revenue generated by the issuance of a "life of site" permit depends upon the number of years remaining in its 30-year life. Without a detailed review of permits for all active facilities (total 198) to determine the number of years remaining for each of the facilities, it is not

<sup>2</sup> The schedule for the payment of the application fee for newly permitted facilities is different than the schedule for existing facilities already permitted. New facilities would pay 50% of the applicable fee upon submission of the permit application. The next 25% would be paid at 10 years and the remaining 25% would be paid at 20 years.

possible to develop an exact estimate of the future revenue generated from the new 30-year permit and its associated fees.

Instead this fiscal memo uses an average remaining life of 20 years and applies that average to all facility types and sizes. The average number of years was provided by DENR after a review of a sample of facility types and sizes. This memo also assumes that the permit renewals are evenly divided over the first five years.

Table 2: Summary of Estimated Annual Fee Revenue				
	Current	Projected Revenue Years 0-4	Projected Revenue Years 5-9	Projected Revenue Years 10-14
30-yr Permit Fees	406,300	145,800	72,900	72,900
Annual Fees	396,000	996,500	996,500	996,500
<b>Total</b>	<b>\$ 802,300</b>	<b>\$ 1,142,300</b>	<b>\$ 1,069,400</b>	<b>\$ 1,069,400</b>
Δ current to proposed		340,000	267,100	267,100

Compared to current collections for permits and annual fees, the proposed fee schedule is estimated to increase fee revenue annually by \$340,000 in the first five years. Fee revenue drops in the subsequent years as compared to the first five years, but remains slightly higher than current collections. For a detailed chart on revenue projections by facility type, see Table 3 at the end of this memo.

**Section 7** of the PCS authorizes cities and counties to levy a surcharge on existing fees for use of waste disposal facilities provided by them on other cities and counties located within the State that use the disposal facilities. It also authorizes cities and counties imposing such a surcharge to use the funds that accrue in excess of the amount needed to operate the landfill for other purposes. In addition, the PCS authorizes cities and counties to include such a surcharge on other local governments' waste as part of a franchise agreement entered into with a private landfill owner or operator.

The fiscal impact of this section on the revenue of local governments is unknown because the number of cities and counties that may impose such a surcharge is unknown as is the amount of the surcharge.

**Section 8** of the PCS requires applicants for a permit for a sanitary landfill who received funds as reimbursement in accordance with subsections (a) through (g) of Section 3 of S.L. 2007-543 to repay 80% of the funds received as reimbursement to the Secretary of Revenue before a permit may be issued to construct a sanitary landfill on the property which was the subject of a permit application for which funds were received.

The total amount paid out as reimbursement was \$4,113,095. The maximum amount that may be paid back is \$3,290,476. The actual amount to be paid back depends on whether the facility decides to seek another permit which is unknown at this time. Funds that are paid back will be distributed in accordance with the use of the Solid Waste Disposal Tax proceeds as follows:

1. 50% to the Inactive Hazardous Sites Cleanup Fund
2. 37.5% to cities and counties on a per capita basis, and

3. 12.5% to the Solid Waste Management Trust Fund.

**SOURCES OF DATA:** Department of Environment and Natural Resources

**TECHNICAL CONSIDERATIONS:** None

Table 3: PCS - SB 328 Proposed Fee Schedule by Facility Type and Size							
Facility Type & Size	# of Active Facilities	Major Modification Fee	Fee Prorated for 20 years Remaining Life	50% Due Upon Application	Total First Five Year Fee Revenue	Proposed Annual Fee	Total Annual Fee Revenue
Municipal Solid Waste Landfill Facility < 100,000 tons/yr	20	\$15,000	\$10,000	\$5,000	\$100,000	\$7,500	\$150,000
Municipal Solid Waste Landfill Facility ≥ 100K tons < 250K tons/yr	12	\$30,000	\$20,000	\$10,000	\$120,000	\$12,000	\$144,000
Municipal Solid Waste Landfill Facility ≥ 250,000 tons/yr	8	\$55,000	\$36,667	\$18,333	\$146,667	\$15,000	\$120,000
Construction and Demolition Landfill Facility < 25,000 tons/yr	35	\$9,000	\$6,000	\$3,000	\$105,000	\$5,500	\$192,500
Construction and Demolition Landfill Facility > 25,000 tons/yr	17	\$18,500	\$12,333	\$6,167	\$104,833	\$8,500	\$144,500
Industrial Landfill <100,000 tons/yr	8	\$9,000	\$6,000	\$3,000	\$24,000	\$5,500	\$44,000
Industrial Landfill >100,000 tons/yr	9	\$18,500	\$12,333	\$6,167	\$55,500	\$10,000	\$90,000
Tire Monofill	2	\$9,000	\$6,000	\$3,000	\$6,000	\$5,500	\$11,000
Transfer Station < 25,000 tons/yr	40	\$1,500	\$1,000	\$500	\$20,000	\$750	\$30,000
Transfer Station > 25,000 tons/yr	47	\$3,000	\$2,000	\$1,000	\$47,000	\$1,500	\$70,500
<b>Total New Fee Revenue (over 5 years)</b>					<b>\$729,000</b>		
<b>Total Annual Revenue</b>					<b>\$145,800</b>		<b>\$996,500</b>

Table 4: PCS - SB 328 Proposed Fee Schedule Compared to Current Fee Schedule							
Facility Type & Size	New 30-Year "Life of Site" Permit Fee	Current 5-Yr Permit Fee	Major Modification Fee	Current 5-Yr Amendment Fee	Proposed Annual Fee	Current Annual Fee	New Change Ownership Fee
Municipal Solid Waste Landfill Facility < 100,000 tons/yr	\$25,000	\$25,000	\$15,000	\$15,000	\$7,500	\$3,500	\$5,000
Municipal Solid Waste Landfill Facility ≥ 100K tons < 250K tons/yr	\$50,000	\$50,000	\$30,000	\$30,000	\$12,000	\$3,500	\$5,000
Municipal Solid Waste Landfill Facility ≥ 250,000 tons/yr	\$75,000	\$50,000	\$55,000	\$30,000	\$15,000	\$3,500	\$5,000
Construction and Demolition Landfill Facility < 25,000 tons/yr	\$15,000	\$15,000	\$9,000	\$9,000	\$5,500	\$2,750	\$3,000
Construction and Demolition Landfill Facility > 25,000 tons/yr	\$30,000	\$30,000	\$18,500	\$18,500	\$8,500	\$2,750	\$3,000
Industrial Landfill <100,000 tons/yr	\$15,000	\$15,000	\$9,000	\$9,000	\$5,500	\$2,750	\$2,000
Industrial Landfill >100,000 tons/yr	\$30,000	\$30,000	\$18,500	\$18,500	\$10,000	\$2,750	\$2,000
Tire Monofill	\$15,000	\$1,750	\$9,000	\$1,250	\$5,500	\$500	\$2,000
Transfer Station < 25,000 tons/yr	\$2,500	\$5,000	\$1,500	\$3,000	\$750	\$750	\$1,000
Transfer Station > 25,000 tons/yr	\$5,000	\$5,000	\$3,000	\$3,000	\$1,500	\$750	\$1,000